

able Sureties of sufficient Persons, having sufficient, within the Counties where such Persons be so let to Bail or Mainprise, to keep their Days in such Place as the said Writs, Bills, or Warrants shall require. (6) Such Person or Persons which be or shall be in their Ward by Condemnation, Execution, *Capias Utlagat'*, or *Excommunicatum*, Surety of the Peace, and all such Persons which be or shall be committed to Ward by special Commandment of any Justices, and Vagabonds refusing to serve according to the form of the Statute of Labourers only except. (7) And that no Sheriff, nor any of the Officers or Ministers aforesaid, shall take or cause to be taken, or make any Obligation for any cause aforesaid, or by colour of their Office, but only to themselves, of any Person, nor by any Person which shall be in their Ward by the Course of the Law, but by the name of their Office, and upon Condition written, that the said Prisoners shall appear at the Day contained in the said Writ, Bill, or Warrant, and in such Places as the said Writs, Bills, or Warrants shall require. (8) And if any of the said Sheriffs, or other Officers or Ministers aforesaid, take any Obligation in other form by colour of their Offices, that it shall be void; (9) and that he shall take no more for the making of any such Obligation, Warrant, or Precept \*by them to be made, but Four Pence. (14) And if the 250 said Sheriffs return upon any Person, *Cepi Corpus*, or *Reddidit se*, that they shall be chargeable to have the Bodies of the said Persons at the Days of the Returns of the said Writs, Bills, or Warrants, in such form as they were before the making of this Act.

4 H. 4, c. 5. Hob. 13. 21 H. 7, f. 36. Cro. El. 66, 11, 12, 178, 191, 199, 271. 1 Roll. 169. 21 H. 7, f. 16. Dyer, f. 119. Latch. 54. 3 Mod. 225. Dyer, f. 25.

As to the first branch of this Statute, it was formerly holden that the Statute was a particular one and must be pleaded; but this opinion has been overruled, see 2 Wms. Saund. 155 a. n. 6. A lease reserving part of the profits only is within the Statute, and indeed a lease where no rent is reserved, Dalt. Sher. 23, 24, as also a lease of part of the bailiwick, for the less is comprehended in the greater, Plowd. 87. The offence, it seems, is *malum in se* and not merely *malum prohibitum*.

Imprisonment for debt is now abolished, and the taking of bail bonds in civil actions is out of use. Nor can the Sheriff take bail in criminal cases under this Statute, though he is authorized to do so by Act Oct. 1780, ch. 10, Code, Art. 88, secs. 11, 12,<sup>1</sup> see *Benough v. Rossiter*, 4 T. R. 505.

<sup>1</sup> Code 1911, Art. 87, secs. 7, 8.